

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

LARRY NEELEY,	:	Case No. 3:07-cv-204
	:	
Petitioner,	:	Judge Timothy S. Black
	:	Magistrate Judge Sharon L. Ovington
vs.	:	
	:	
ERNIE MOORE, Warden,	:	
	:	
Respondent.	:	

**DECISION AND ENTRY: (1) ADOPTING THE REPORT AND
RECOMMENDATIONS (Doc. 18) OF THE UNITED STATES MAGISTRATE
JUDGE; (2) OVERRULING PETITIONER'S OBJECTIONS (Doc. 20);
(3) DENYING PETITIONER'S MOTION TO APPOINT COUNSEL (Doc. 16);
(4) DISMISSING PETITIONER'S PETITION FOR WRIT OF
HABEAS CORPUS (Doc. 2); (5) DENYING ANY REQUESTED CERTIFICATE
OF APPEALABILITY; AND (6) TERMINATING THIS CASE**

This case is before the Court on the Report and Recommendations (Doc. 18) of the United States Magistrate Judge Sharon L. Ovington, submitted May 26, 2010. The Magistrate Judge, after reviewing the pleadings filed with the Court, recommends that Petitioner's Motion to Appoint Counsel (Doc. 16) be denied and that his Petition for Writ of Habeas Corpus (Doc. 2) be denied and dismissed. Petitioner filed Objections to the Report and Recommendations (Doc. 20). Respondent submitted no response to Petitioner's Objections.

As required by 28 U.S.C. § 636(b) and Fed. R. Civ. P. 72(b), the Court has reviewed the comprehensive findings of the Magistrate Judge and considered *de novo* all

of the filings in this matter. Upon consideration of the foregoing, the Court does determine that the Report and Recommendations (Doc. 18) should be and is hereby adopted. As determined by the Magistrate Judge, the grounds for relief advanced by Petitioner have been procedurally defaulted and Petitioner has failed to demonstrate cause for such default and actual prejudice. See *Bonilla v. Hurley*, 370 F.3d 494, 497-498 (6th Cir. 2004).

Accordingly, the Court finds that:

- (1) The Report and Recommendations of the Magistrate Judge (Doc. 18) is hereby **ADOPTED**;
- (2) Petitioner's Objections (Docs. 20) are hereby **OVERRULED**;
- (3) Petitioner's Motion to Appoint Counsel (Doc. 16) is **DENIED**;
- (4) Petitioner's Petition for Writ of Habeas Corpus (Doc. 2) is **DISMISSED**;
- (5) That a certificate of appealability under 28 U.S.C. § 2253(c) shall not issue; and
- (6) The case is **TERMINATED** on the docket.

IT IS SO ORDERED.

Date: 7/27/10

Timothy S. Black
Timothy S. Black
United States District Judge